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UNITED STATES BANKRUPTCY COURT, DISTRICT OF IDAHO (COEUR D'ALENE)

PROOF OF CLAIM

Name of Debtor
FRANK L. CHAPIN
SYDNEY L. GUTIERREZ-CHAPIN

Case Number
02-20218

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (The person or other entity to whom the debtor owes money or property):

AMERICAN RED CROSS

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check box if you have never received any notices from the bankruptcy court in this case.

☐ Check box if the address differs from the address on the envelope sent to you by the court.

Name and address where notices should be sent:

SCOTT R. SMITH
STAMPER, RUBENS, STOCKER & SMITH, P.S.
720 WEST BOONE, SUITE 200
SPOKANE, WA 99201

Telephone Number: (509) 326-4800

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Account or other number by which creditor identifies debtor:

N/A

Check here

if this claim

☐ replaces

☐ amends

a previously filed claim, dated: _____

1. BASIS FOR CLAIM

- ☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☒ Other: Breach of fiduciary duty

☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)

☐ Wages, salaries, and compensation (Fill out below)

Your SS # _____

Unpaid compensation for services performed

(from _____ to _____)
 (date) (date)

2. Date debt was incurred:

See attached.

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed:

See attached.

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

☒ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attached itemized statement of all interest or additional charges.

5. Secured Claim.

☐ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

☐ Real Estate ☐ Motor Vehicle

☐ Other _____

Value of Collateral: \$ _____

Amount of arrearage and other charges at time case filed included in secured claim above, if any \$ _____

6. Unsecured Priority Claim.

☐ Check this box if have an unsecured priority claim

Amount entitled to priority \$ _____

Specify the priority of the claim

☐ Wages, salaries, or commissions (up to \$4,650),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, which ever is earlier - 11 U.S.C. § 507(a)(3)

☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4)

☐ Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6)

☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7)

☐ Taxes or penalties of governmental units - 11 U.S.C. § 507(a)(8)

☐ Other-Specify applicable paragraph of 11 U.S.C. § 507(a) _____

*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. CREDITS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

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8. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. DATE-STAMPED COPY: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

Date

7/3/02

Sign and print name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)

Scott R. Smith Scott R. Smith, Atty. For Creditor

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Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

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ORIGINAL

**PROOF OF CLAIM
SUMMARY OF SUPPORTING DOCUMENTS**

Debtor Frank L. Chapin was the co-Personal Representative for the Estate of Christina Leaf, Spokane County Superior Court, Cause No. 96-4-006175. Estate funds have not been distributed to the beneficiaries of the Estate, nor did Debtor Frank L. Chapin fulfill his statutory and fiduciary duties as the co-Personal Representative. Debtor Frank L. Chapin has resigned as a Personal Representative, but the court refused to discharge him from liability for his acts or failure to act as the Co-Personal Representative. The Washington Probate Court has now appointed attorney Michael J. Paukert to represent the interests of the Estate of Christina Leaf in the instant bankruptcy proceeding.

The Estate of Christina Leaf filed an adversary complaint for damages and to deny discharge in the instant bankruptcy matter. See Adv. Pro. No. 02-6135. Debtor Frank L. Chapin has admitted under oath that he converted the bulk of Estate assets to his own personal use.

Nine of the beneficiaries of the Estate of Christina Leaf have filed a civil tort action against debtor Frank L. Chapin in Spokane County Superior Court. Spokane County Superior Court, Cause No. 01-2-06413-9. The tort action seeks unspecified damages for negligence, fraud, and breach of fiduciary duty.

The nine beneficiaries have also filed an adversary complaint against the debtors and the debtors' wholly-owned corporation, Financial Management Services, Inc.. See Adv. Pro. No. 02-6136, seeking damages and denying discharge of the Chapin's debts to the beneficiaries.

The debt due the Estate and beneficiaries is estimated at \$1.8 million, however debtor Frank L. Chapin's past refusal to provide a complete and accurate accounting of the total Estate assets and the funds he converted from the Estate has made it difficult to arrive at the exact amount. The beneficiary creditors seek civil damages for the six year delay in receiving their rightful inheritance. The civil damages are in excess of the \$1.8 million claimed by the Estate, however, the amount of civil damages is unliquidated and contingent at this time.

FILED

MAY 17 1996

LAST WILL AND TESTAMENT
OF
CHRISTINA LEAF

THOMAS R. FALLOQUIST
SPOKANE COUNTY CLERK

96400617-5

I, CHRISTINA LEAF, a resident of Spokane County, Washington, do hereby make, publish and declare this my Last Will and Testament.

1. I hereby revoke any and all wills and codicils by me heretofore made.
2. I declare that my estate presently consists of my separate property and of my one-half interest in the community property of myself and my husband, and that by this Will I intend to dispose of all of my property over which I have the power of testamentary disposition, including my one-half interest in the community property of myself and my husband.
- 2 3. I am presently married to WILBUR A. LEAF and have no children, living or deceased.
4. The following provisions apply to this Will:
 - (A) For all beneficiaries a condition of survivorship shall mean surviving by at least thirty (30) days.
 - (B) Unless the context requires otherwise, masculine, feminine and neuter gender may be used interchangeably, and plural or singular usage shall include the other.
 - (C) No provision of this Will is intended to exercise any power of appointment I may have unless the power of appointment is identified therein.
 - (D) Unless expressly provided otherwise, I intend the provisions of this Will to dispose only of such property as I may own, and I do not intend to require any beneficiary to make an election in order to receive such property. Further, this Will is freely revocable by me and is not the result of a contract with any person.
5. I direct that all costs of administration and all taxes or duties (including interest thereon) imposed by any jurisdiction on or in relation to any property includable in my estate because of my death, whether or not such property passes under the provisions of this Will, be paid out of the residue of my estate. The personal representative shall have authority to prepay or defer any taxes attributable to remainder interests created under this Will. To the extent such taxes cannot be satisfied from my residuary estate, they shall be prorated among the beneficiaries of property passing under the provisions of this Will, or outside the provisions of this Will, as if there were no provisions for such taxes herein.

6. I direct that my estate be settled in the manner provided for herein. I give my Personal Representative full power to administer this Will and my estate without the intervention of the court, it being my intention to avail myself of the provisions of the non-intervention will statutes of the State of Washington. My Personal Representative shall have full power after the entry of an order of solvency to alienate, mortgage, pledge, lease, sell, exchange, manage and convey the real and personal property disposed of by this Will, and to borrow money, with or without security, without an order of the court for that purpose, and without notice, approval or confirmation and whether or not the same is necessary for the administration of my estate. These non-intervention powers shall be unrestricted.
7. I give and bequeath all of my personal and household effects of every kind including, but not limited to, furniture, appliances, furnishings, pictures, silverware, china, glass, books, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, to my husband, WILBUR A. LEAF, if he shall survive me. If my said husband shall not survive me, I give and bequeath all of said property to the Residuary Trust set forth herein.
8. If my husband, WILBUR A. LEAF, shall survive me, I give, devise and bequeath to my said husband cash, securities, contracts or other property of my estate (undiminished by any estate, inheritance, succession, death or similar taxes) having a value equal to the maximum marital deduction as finally determined in my federal estate tax proceedings, less the aggregate amount of marital deductions, if any, allowed for such tax purposes by reason of property or interests in property passing or which have passed to my said wife otherwise than pursuant to the provisions of this item; provided, however, the amount of this bequest shall be reduced by the amount, if any, needed to increase my taxable estate (for federal estate tax purposes) to the largest amount that, after allowing for the unified credit against the federal estate tax, and the state death tax credit against such tax (but only to the extent that the use of such state death tax credit does not increase the death tax payable to any state), will not result in a federal estate tax being imposed on my estate. The term "maximum marital deduction" shall not be construed as a direction by me to exercise any election respecting the deduction of estate administration expenses, the determination of the estate tax valuation date, or any other tax election which may be available under any tax laws, only in such manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made. My Personal Representative shall have the sole discretion to select the assets which shall constitute this bequest. In no event, however, shall there be included in this bequest any asset or the proceeds of any asset which will not qualify for the federal estate tax marital deduction, and this bequest shall be reduced to the extent that it cannot be created with such qualifying assets. My Personal Representative shall value any asset selected by my Personal Representative for distribution in kind as a part of this bequest at the value of such asset at the date of distribution of such asset.

9. I give, devise, and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to my Trustee hereinafter named. This Trust shall be known as the "Residuary Trust" and shall be held, administered and distributed as follows:
- (A) Commencing with the date of my death, my Trustee may pay to or apply for the benefit of my said husband for his life as much of the net income and principal from the Residuary Trust in such shares and proportions as my Trustee in its sole discretion shall determine primarily for the medical care, comfortable maintenance, welfare and education of my said husband, taking into consideration to the extent my Trustee deems advisable any other income or resources of my said husband known to my Trustee.
- (B) Distribution of Trust Estate Following the Death of Spouse. Following the death of my spouse, or if my spouse shall not survive me, then forthwith, the Trustee shall divide the Trust Estate as follows:
- (1) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my half-brother, JOHN WAGNER.
 - (2) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my half-brother, GEORGE WAGNER.
 - (3) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my half-brother, DAVID WAGNER.
 - (4) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my brother, DANIEL WAGNER.
 - (5) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my nephew, DONALD WAGNER.
 - (6) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my niece, LINDA WAGNER.
 - (7) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my niece, KAREN SAXONSKY.
 - (8) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my niece, JERLYN BEIRMA.
 - (9) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my niece, LYNETTE BREKKE.

- (10) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to my niece, JERILYN KLUNGTWEDT.
- (11) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to AMERICAN LUTHERAN CHURCH, Newport, Washington.
- (12) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to AMERICAN RED CROSS, INLAND NORTHWEST CHAPTER, P.O. Box 5130, Spokane, Washington.
- (13) One-thirteenth (1/13) of the Trust Estate as then constituted shall be distributed to DEACONESS MEDICAL CENTER - SPOKANE, PEDIATRICS DEPARTMENT, Spokane, Washington.

Should any of the above-mentioned individuals fail to survive the distribution of the Residuary Trust, then the survivors shall split the decedent's share equally, share and share alike.

- 10. I hereby nominate, constitute and appoint my husband, WILBUR A. LEAF, as my Personal Representative. As contingent Personal Representative, I hereby nominate, constitute and appoint my accountant, FRANK CHAPIN, and FRED LEAF as Co-Personal Representatives. I hereby nominate, constitute and appoint my accountant, FRANK CHAPIN, and FRED LEAF Co-Trustees of the Trust created herein. Should either FRANK CHAPIN or FRED LEAF be unable or unwilling to serve as Co-Personal Representative or Co-Trustee, then I nominate, constitute and appoint ALAN OLSON as contingent Co-Personal Representative or Co-Trustee.
- 11. For its services as Personal Representative and Trustee, my Personal Representative and/or Trustee shall receive an amount which shall be determined by its standard fee schedule in effect and applicable at the time of the performance of such services. If no such schedule shall be in effect at that time, it shall be entitled to reasonable compensation for the services rendered.
- 12. My Personal Representative and Trustees shall have all inherent, implied or statutory powers granted to Personal Representatives or Trustees in the State of Washington.
- 13. In making any division of the Trust property into shares for the purpose of any distribution thereof directed by the provisions of this agreement, it shall be proper for the Trustee to make such division or distribution, either in cash or in kind, or partly in cash and partly in kind, as the Trustee shall deem most expedient, and in making any division or distribution in kind the Trustee may allot any specific security or property or any undivided interest therein to any one or more of such shares, and to that end may appraise any or all of the property of such allotment and as to the relative value for purposes of

distribution of the securities or property so allotted shall be final and conclusive upon all persons interested in this Trust or in the division or distribution thereof.

14. It is expressly provided that the grant of rights, powers, privileges and authority to my Personal Representative in connection with the imposition of duties upon said Personal Representative by any provision of this my Will or by any statute relating thereto shall not be effective if and to the extent that the same, if effective, would disqualify the marital deduction as provided for herein. It is expressly provided that my Personal Representative shall not in the exercise of its discretion make any determination inconsistent with the foregoing intention.
15. In case the income or principal payment under any trust created hereunder or any share thereof shall become payable to a person under the age of twenty-one (21) or to a person under legal disability or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is, in the opinion of my Trustee, unable properly to administer such amounts, then such amounts shall be paid out by my Trustee in such of the following ways as my Trustee deems best:
 - (A) Directly to such beneficiary;
 - (B) To the legally appointed guardian of such beneficiary;
 - (C) By my Trustee using such amounts directly for such beneficiary's care, support and education.
16. My Personal Representative shall have absolute discretion, but shall not be required, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election or of any investment or administrative decision that my Personal Representative believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others. In determining the federal estate and income tax liabilities of my estate, my Personal Representative shall have discretion to select valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as federal estate tax deductions or as federal income tax deductions and shall have the discretion to file a joint income tax return with my spouse.
17. If at any time any Trust created hereunder has a fair market value as determined by my Trustee of fifteen thousand dollars (\$15,000) or less, my Trustee, in its absolute discretion, if it determines that it is uneconomical to continue such Trust, may terminate such Trust and distribute the Trust property to the person or persons then entitled to receive or have the benefit of the income therefrom or the legal representative of such person. If there is more than one income beneficiary, my Trustee shall make such distribution to such income beneficiaries or, if no proportion is designated, in equal shares to such beneficiaries.

18. If it becomes necessary for a representative of my estate to qualify in any jurisdiction other than the State of my domicile at the time of my death, then to the extent that I may legally do so, I hereby nominate, constitute and appoint my Personal Representative named in this Will as my representative in such jurisdiction and direct that such Personal Representative shall serve without bond. If for any reason my Personal Representative is unable or unwilling to serve as such representative or cannot qualify as such representative then I hereby appoint my Personal Representative named here to designate (to the extent that it may legally do so) a person or a corporation to serve as my Representative, and request that such person or corporation shall serve without bond. Any representative named as provided herein (to the extent that it may legally do so) shall have in such jurisdiction all the powers and duties conferred or imposed on my Personal Representative by the provisions of this Will.
19. Upon the death of any person entitled to income or support from any Trust hereunder, my Trustee shall be authorized to pay the funeral expenses and the expenses of the last illness of such person from the corpus of the Trust from which such person was entitled to income or support.
20. Except as otherwise provided herein, all payments of principal and income payable, or to become payable, to the beneficiary of any Trust created hereunder shall not be subject to anticipation, assignment, pledge, sale or transfer in any manner, nor shall any said beneficiary have the power to anticipate or encumber such interest, nor shall such interest, while in the possession of my Personal Representative or Trustee, be liable for, or subject to, the debts, contracts, obligations, liabilities or torts of any beneficiary.
21. No Trustee shall be responsible for any mistake in judgment or for any decrease in value of or loss to the Trust estate or for any cause whatever except Trustee's own bad faith or gross negligence. The Trustee shall not be required to give any bond or other security for the faithful performance of Trustee's duties hereunder.
22. This document has been delivered in the State of Washington. The laws of the State of Washington shall govern the validity, interpretation and administration thereof, notwithstanding the residence in another jurisdiction of the Trustee, or any beneficiary hereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and published and declared this as my Last Will and Testament this 30 day of September 1992.


CHRISTINA LEAF

This instrument, consisting of eight (8) typewritten pages, including this page, was on the 30 day of September, 1992 signed by the said CHRISTINA LEAF, and by her published and declared to be her Last Will and Testament in the presence of us and each of us who, at her request and in her presence and in the presence of each other, now sign our names as witnesses thereto.

W. Kolensy
WITNESS
Residing at: Hayden Th. Id.

Frank L. Chapin
WITNESS
Residing at: Sandpoint, Idaho

STATE OF WASHINGTON)
County of Spokane) ss.

LAST WILL AND TESTAMENT - 8